

**SPECIAL EDUCATION AND
RELATED SERVICES
SERVICE DELIVERY
GUIDELINES**

It is the policy of the South Dakota Department of Education and Cultural Affairs to provide services to all persons without regard to race, color, creed, religion, sex, disability, ancestry, or national origin in accordance with State Law (SDCL 20-13) and Federal Law (Title VI of Civil Rights Act of 1964, the Rehabilitation Act of 1973 as amended, and the Americans with Disabilities Act of 1990).

INTRODUCTION

The 1999 South Dakota Legislature enacted House Bill 1178, entitled "An Act to revise the state aid for special education funding formula". Section 9 of that Act, now SDCL 13-37-48.1, states in pertinent part:

...money set aside pursuant to 13-37-40 (extraordinary cost fund) may be used by the Department of Education and Cultural Affairs...to establish and maintain state protocols to assist school districts in developing individualized education plans...

The Office of Special Education convened a workgroup representing special education administrators, special education teachers, family members of students with disabilities, related service providers, and others to develop special education and related services service delivery guidelines.

The purpose of the guidelines is to assist local placement committees or IEP teams in designing appropriate instructional programs for students with disabilities, with a goal of greater statewide consistency in service delivery and equity for students. The guidelines provide local placement committees with an idea of what is "normal and customary" across South Dakota in terms of instructional programs for frequent learning difficulties identified for students with disabilities.

While local placement committees may begin with the guidelines when considering services for students, the overriding factor is what constitutes a free appropriate public education (FAPE) for a student with a disability. The Individuals with Disabilities Education Act, (IDEA) at 34 CFR 300.13 defines FAPE as follows:

...the term free appropriate public education means special education and related services that-

- (a) Are provided at public expense, under public supervision and direction, and without change;
- (b) Meet the standards of the SEA (state education agency) including the requirements of this part (Part B of IDEA);
- (c) Include preschool, elementary school, or secondary school education in the State; and
- (d) Are provided in conformity with an individualized education program (IEP)...

The service guidelines are not mandates. They do not represent minimum or maximum services. Rather, they are averages-some students will have needs that require services above the average, some students will have needs below the average. The guidelines, as averages, were developed around instructional areas common to most students with disabilities. They are not intended for use by placement committees when considering the needs of students with low incidence disabilities or unique needs.

SELECTED DEFINITIONS/CLARIFICATION

1. Special Education

Specially designed instruction...to meet the unique needs of a child with a disability, including-

Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

Instruction in physical education.

May include speech-language pathology services (or any other related services), travel training, or vocational education if considered special education under state standards.

Specially designed instruction means adapting, as appropriate to the needs of a student, the content, methodology, or delivery of instruction-

- (i) To address the unique needs of the student that results from the student's disability; and
- (ii) To ensure access of the student to the general curriculum, so that he or she can meet the educational standards within the jurisdiction of the public agency that apply to all students.

Instruction in basic skills such as reading, written language, or math should be scheduled as a supplement to, rather than a substitute for, the standard classroom offering, whenever possible. IDEA Part B regulations, describing content of IEPs, reference students' access to and participation in the regular or general curriculum in the following areas:

- (i) Present levels of educational performance-how the student's disability affects the student's involvement and progress in the general curriculum;
- (ii) Measurable annual goals including short-term objectives or benchmarks-related to meeting the student's needs that result from the student's disability to enable the student to be involved in and progress in the general curriculum; and
- (iii) A statement of the special education and related services and supplementary aids and services to be provided to the student, or on behalf of the student, and a statement of the program modification or supports for school personnel that will be provided for the student-to be involved and progress in the general curriculum...

2. [Study Skills](#)

Instruction in skills such as organization, test taking, assignment completion. IEP teams should consider this kind of instruction if: 1) assessment or evaluation shows deficits in these areas, 2) the IEP includes organization or general curriculum goals and objectives or benchmarks, and 3) instruction is provided by a special education staff.

3. [Alternate or Additional Curriculum](#)

Curriculum designed to meet the students' other education needs that result from the student's disability.

Alternate curriculum in content areas should only be considered under the following circumstances:

- 1) The student functions at or below the second percentile in a skill required for the content area, and
- 2) The student cannot benefit from the general curriculum even with supplementary aids and services, program modifications, or supports.

4. [Secondary Transition \(employability skills, independent living skills\)](#)

Coordinated set of activities for a student with a disability that is designed within an outcome-oriented process that promotes movement from school to post-school activities, including:

1. post-secondary education
2. vocational training
3. integrated employment (including supported employment)
4. continuing and adult education
5. adult services
6. independent living
7. community participation
8. If appropriate, acquisition of daily living skills and functional vocational evaluation

Transition services may be special education or related services.

5. [Post-High School](#)

IDEA-B regulations at 300.122 do not obligate districts to make FAPE available to students with disabilities who have graduated from high school with a regular diploma. Students who have graduated but have not been awarded a regular high school diploma are still eligible for FAPE. SDCL 13-28-6 states that a pupil who is enrolled in school and becomes twenty-one years of age during the fiscal school year shall have free school privileges during that school year.

6. [Assistive Technology Services/Augmentative Communication](#)

Assistive technology services means any service that directly assists a student with a disability in the selection, acquisition, or use of an assistive technology device. This includes evaluation, acquisition (i.e. purchase or lease), fitting, adapting, maintaining (etc.) a device, coordination with other services and interventions, and training/technical assistance for the student, service providers, and family if appropriate. Assistive technology should be infused in all curriculum and extracurricular areas.

Students with augmentative and alternative communication needs will initially require more of a time commitment than reflected in the guidelines.

As the student's competency level with the communication system progresses, the guidelines may be followed.

7. [Other Related Services](#)

This category may include audiology, early identification and assessment of disabilities, medical services, orientation and mobility, parent counseling and training, psychological services, recreation, rehabilitation counseling, school health services, and social work services in schools. The list is not exhaustive.

8. [Transportation](#)

Transportation includes travel to and from school and between schools; travel in and around school buildings; and specialized equipment if necessary. If a student's disability(ies) create unique needs that make it especially problematic to get the student to school in the same manner that a nondisabled student would get to school in the same circumstances, then transportation may be an appropriate related service. However, if a student with a disability is capable of using the same transportation services as nondisabled students, then it would be consistent with IDEA-B for the student's placement committee to find that transportation is not required as a related service.

Transportation for students enrolled in private schools by their parents is governed by IDEA-B at 300.456:

[If necessary for a child to benefit from or participate in services provided under this part, a private school child with a disability must be provided transportation-](#)

- [\(A\) From the child's school or the child's home to a site other than the private school; and](#)
- [\(B\) From the service site to the private school, or to the child's home, depending on the timing of the services.](#)

Districts are not required to provide transportation from the child's home to the private school.

The cost of transporting private school children with disabilities may be included in calculating whether the district has met its proportionate cost requirement (sec. 300.453).

EXTENDED SCHOOL YEAR

IDEA-B regulations at 300.309 define extended school year services as follows:

Each public agency shall ensure that extended school year services are available as necessary to provide FAPE...

Extended school year services must be provided only if the child's IEP-team determines, on an individual basis, in accordance with (IEP requirements), that the services are necessary for the provision of FAPE to the child.

In implementing the requirements of (extended school year services), a public agency may not-

1. Limit extended school year services to particular categories of disability; or
2. Unilaterally limit the type, amount, or duration of those services.

...Extended school year services means special education and related services that-

1. Are provided to a child with a disability:
 - a. Beyond the normal school year of the public agency;
 - b. In accordance with the child's IEP;
 - c. At no cost to the parents of the child; and
 - d. Meet the standards of the SEA.

The primary elements to be used by placement committees in determining the need for extended school year should include:

1. The likelihood of significant regression of previously attained skills which occurs as a result of an interruption in educational programming.
2. The rate of probable recoupment of skills. Any recoupment that takes more than 8 weeks should be considered significant.
3. Factors such as:
 - degree of impairment
 - parent's ability to provide an education structure at home
 - student's rate of progress
 - behavioral and physical problems
 - availability of alternative resources
 - student's ability to interact with non-disabled peers
 - curriculum areas that need continued attention

- student's vocational needs

(Johnson v. Bixby 105 Circuit 1990)

4. Whether summer break would:

- halt a student's progress toward developing critical life skills
- interrupt a student with a disability at a critical breakthrough period (i.e. learning to verbalize)
- intensify "interfering behavior" such as aggression or self-injury..

(Reusch v. Fountain MJG-91-3124)

Regression/recoupment criteria/judgements are not appropriate elements to use when planning year round service needs or "extended time" needs for infants and toddlers with disabilities.

The placement committee may use the following data or information when considering extended school year services:

1. Retrospective data collected during the school year, i.e. historical data, observations/charting, pre and post testing.
2. Prospective decision, the anticipation of regression occurring based on an analysis of test data, observations, and progress made toward IEP goals and objectives. Prospective criteria or expert opinion should include the following data:
 - review of current IEP goals/objectives
 - observations and data from teachers, therapists, parents, and others having direct contact with the student before and after breaks in educational programming
 - data and observations regarding the student's performance after long weekends, vacations, and summer breaks
 - assessment information maintained on the student, including pretest and posttest data
 - curriculum based measuring, including pretest and posttest data
 - other relevant factors.

Recommended Special Education Service Hours Guidelines

Area	Kindergarten	Elementary	Middle School/ Junior High	High School	Post-High School
Reading		5 hours a week	3.5 to 4.5 hours a week	3.5 to 4.5 hours a week	0
Written Language		2-3 hours a week	3.5 to 4.5 hours a week	3.5 to 4.5 hours a week	0
Language Arts (combined reading, language)	1 hour a week	5-6 hours a week	3.5 to 4.5 hours a week	3.5 to 4.5 hours a week	0
Math	1 hour a week	2-3 hours a week	3.5 to 4.5 hours a week	3.5 to 4.5 hours a week	0
Study Skills		Individualized	2 to 4 hours a week	3.5 to 4.5 hours a week	0
Alternate or additional curriculum (designed to meet each of the child's other educational needs that result from their disability)	Individualized	Individualized	Individualized	Individualized	Individualized
Employment skills			Individualized	7-9 hours per week	Individualized up to 8 hours a day
Independent living skills			Individualized	7-9 hours a week	Individualized up to 8 hours a day

Recommended Preschool Special Education Service Amounts Guidelines*

Settings	Special Education	Speech/Language	OT	PT
Home	1 hour/week	1 hour/month-1 hour/week	1 hour/month-1 hour/week	1 hour/month-1 hour/week
Early Childhood	1-2 hour/week	1 hour/month-1 hour/week	1 hour/month-1 hour/week	1 hour/month-1 hour/week
Part-Time Early Childhood/Part-Time Early Childhood Special Education	Individualized	Individualized	Individualized	Individualized
Early Childhood Special Education	2 hour sessions/2-5 times per week	30-60 minutes per week	30-60 minutes per week	1 hour/month-1 hour/week
Separate School	Individualized	Individualized	Individualized	Individualized
Residential Facility	Individualized	Individualized	Individualized	Individualized

*These amounts reflect direct services provided by special education staff

Recommended Related Service Hours Guidelines

Related Services	Kindergarten	Elementary	Middle School/ Junior High	High School	Post-High School
Physical Therapy (PT)	30-60 minutes per week	30-60 minutes per week	Individualized *	Individualized *	Individualized *
Occupational Therapy (OT)	30-60 minutes per week	30-60 minutes per week	Individualized *	Individualized *	Individualized *
Adaptive P.E.	.5 to 1.0 hours per week	.5 to 1.0 hours per week	.5 to 1.0 hours per week	.5 to .10 hours per week	0 hours per week
Speech/Language Therapy	40 to 60 minutes per week	40 to 60 minutes per week	40 to 60 minutes per week	40 to 60 minutes per week	Individualized
Augmentative Communication	1 hour per week	1 hour per week	1 hour per week	1 hour per week	Individualized
Counseling	30-60 minutes per week	30-60 minutes per week	30-60 minutes per week	30-60 minutes per week	30-60 minutes per week
Transportation	See within guidance	See written guidance	See written guidance	See written guidance	See written guidance
Other					

***NOTE:** In middle school/junior high, high school and beyond, these services are more typically provided in a consultative model. When direct therapy is provided, it ranges from 30 minutes per month up to 1 hour a week.

TRANSPORTATION GUIDELINES

A student may be considered eligible for transportation as a related service if the student is unable to walk or get to school independently because of his/her disability:

- ❖ As documented by a medical report, the student has a physical disability that prevents him/her from walking or getting to school independently.
- ❖ As documented by a medical report, the student has a severe health condition that prevents him/her from walking to school.
- ❖ The student has a documented severe cognitive disability that prevents him/her from walking or getting to school independently.
- ❖ The student has a behavior/emotional disability that is so severe or erratic that there is a concern for the safety of the student or others.
- ❖ The student has a severe communication disability that prevents the student from communicating for his/her own safety.
- ❖ The student has a visual and/or hearing disability and the student is unable to arrive at school independently.
- ❖ The student is eligible for an early childhood special education program and will not be able to participate in the program without transportation.
- ❖ The student is attending a distant school because his/her IEP cannot be implemented at the home school. On a case-by-case basis, the IEP team may determine that public transportation and/or provision of cab fare constitutes appropriate transportation services.
- ❖ Beyond the conditions specified above, other criteria may be considered in consultation with the district teams, such as:
 - a. Can the student's special education services be provided at the home attendance center?
 - b. Can the student walk to the school site?
 - c. Can the student use community modes of transportation available to peers the same age?
 - d. Can the student independently cross the streets?
 - e. Can the student independently find his or her way between home and school?
 - f. Does the student independently travel similar distances for other activities during non-school hours?